

Assembly Bill No. 268

CHAPTER 224

An act to amend Sections 113803, 113813, 113865, 114020, 114145, 114265, 114360, and 114380 of, to amend the heading of Article 11 (commencing with Section 114250) of Chapter 4 of Part 7 of Division 104 of, and to amend and renumber Section 113732 of, the Health and Safety Code, relating to retail food facilities.

[Approved by Governor August 4, 1997. Filed with
Secretary of State August 4, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 268, Campbell. Retail food facilities.

Existing law, the California Uniform Retail Food Facilities Law, establishes sanitation standards for retail food facilities and requires local agencies to enforce its provisions. Existing law makes violation of these provisions a crime. Existing law requires that these provisions be enforced by the State Department of Health Services and primarily by local health agencies.

Existing law, with certain exceptions, requires each food establishment to be fully enclosed.

This bill would, during operating hours, exclude from this enclosure requirement operations for customer self-service of nonpotentially hazardous bulk beverage dispensing that meet prescribed requirements.

By increasing the enforcement duties of local health agencies, this bill would impose a state-mandated local program.

This bill would make other changes of a technical, nonsubstantive nature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 113732 of the Health and Safety Code, as added by Section 321.5 of Chapter 1023 of the Statutes of 1996, is amended and renumbered to read:

113733. (a) All animal byproducts and inedible kitchen grease disposed of by any food facility, except restaurants, shall be transported by a renderer licensed under Section 19300 of the Food

and Agricultural Code, or a registered transporter of inedible kitchen grease, licensed under Section 19310 of the Food and Agricultural Code. Nothing in this section prevents a food facility from transporting its own animal byproducts in its own vehicles to a central collection point. For the purposes of this section, inedible kitchen grease does not include grease recovered from an interceptor.

(b) “Restaurant,” as used in this section, means any coffeeshop, cafeteria, short-order cafe, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria or eating establishment, in-plant or employee eating establishment, studio facility, dinnerhouse, delicatessen, commissary, hotel or motel food service operation, and any other eating establishment, organization, club, including veterans’ club, boardinghouse, guesthouse, or political subdivision, that gives, sells, or offers for sale, food to the public, guests, patrons, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering functions.

SEC. 2. Section 113803 of the Health and Safety Code is amended to read:

113803. “Hermetically sealed container” means a container that is designed and intended to be secure against the entry of micro-organisms and, in the case of low-acid canned foods, to maintain the commercial sterility of its contents after processing.

SEC. 3. Section 113813 of the Health and Safety Code is amended to read:

113813. “Injected” means manipulating a meat so that infectious or toxigenic micro-organisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat with, for example, juices, that may be referred to as “injecting,” “pinning,” or “stitch pumping.”

SEC. 4. Section 113865 of the Health and Safety Code is amended to read:

113865. “Remodel” means construction, building, or repair to the food facility that requires a permit from the local building authority. For purposes of Article 11 (commencing with Section 114250), Article 12 (commencing with Section 114285), and Article 17 (commencing with Section 114358), remodel means any replacement or significant modification of an integral piece of equipment.

SEC. 5. Section 114020 of the Health and Safety Code is amended to read:

114020. (a) No employee shall commit any act that may result in the contamination or adulteration of food, food contact surfaces, or utensils.

(b) All employees preparing, serving, or handling food or utensils shall wear clean, washable outer garments, or other clean uniforms.

All employees shall wear hairnets, caps, or other suitable coverings to confine all hair when required to prevent the contamination of food, equipment, or utensils.

(c) All employees shall thoroughly wash their hands and arms by vigorously rubbing them with cleanser and warm water, paying particular attention to areas between the fingers and around and under the nails, rinsing with clean water. Employees shall wash their hands:

(1) Immediately before engaging in food preparation, including working with unpackaged food, clean equipment and utensils, and unwrapped single-service food containers and utensils.

(2) Before dispensing or serving food or handling clean tableware and serving utensils in the food service area.

(3) As often as necessary, during food preparation, to remove soil and contamination and to prevent cross-contamination when changing tasks.

(4) When switching between working with raw foods and working with ready-to-eat foods.

(5) After touching bare human body parts other than clean hands and clean, exposed portions of arms.

(6) After using the toilet room.

(7) After caring for or handling any animal allowed in a food facility pursuant to Section 114045.

(8) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking.

(9) After handling soiled equipment or utensils.

(10) After engaging in any other activities that contaminate the hands.

(d) No employee shall expectorate or use tobacco in any form in any area where food is prepared, served, or stored, or where utensils are cleaned or stored.

(e) Employees serving ready-to-eat foods shall use gloves, tongs, or other implements to place food on tableware or in other containers.

(f) Gloves shall be worn when contacting food and food contact surfaces if the employee has any cuts, sores, rashes, artificial nails, nail polish, rings (other than a plain ring, such as a wedding band), uncleanable orthopedic support devices, or finger nails that are not clean, neatly trimmed, and smooth.

(g) Whenever gloves are worn, they shall be changed, replaced, or washed as often as handwashing is required in subdivision (c). When single-use gloves are used, they shall be replaced after removal.

SEC. 6. Section 114145 of the Health and Safety Code is amended to read:

114145. (a) Each food establishment, except produce stands and swap meet prepackaged food stands, shall be fully enclosed in a

building consisting of floors, walls, and an overhead structure that meet the minimum standards prescribed by this chapter. Food establishments that are not fully enclosed on all sides and that are in operation on January 1, 1985, shall not be required to meet the requirement for a fully enclosed structure pursuant to this section.

(b) This section shall not be construed to require the enclosure of dining areas or open-air barbecue facilities, or outdoor displays that meet the following requirements:

(1) Only prepackaged nonpotentially hazardous food, uncut produce, or both is displayed or sold in the outdoor displays.

(2) Outdoor displays are contiguous with a fully enclosed food establishment that is in compliance with subdivision (a).

(3) Outdoor displays have overhead protection that extends over all food items.

(4) Food items from the outdoor display are stored inside a fully enclosed food establishment that is in compliance with subdivision (a) at all times other than during business hours. Any food items to be stored pursuant to this subdivision shall be stored in accordance with subdivision (a) of Section 114080.

(5) Outdoor displays comply with Section 114010 and have been approved by the enforcement agency.

(6) Outdoor displays are under the constant and complete control of the operator of the permitted food establishment.

(c) This section shall not be construed to require the enclosure during operating hours of customer self-service nonpotentially hazardous bulk beverage dispensing operations that meet the following requirements:

(1) The dispensing operations are installed contiguous with a fully enclosed food establishment that is in compliance with subdivision (a) and operated by the food establishment.

(2) The beverages are dispensed from enclosed equipment that precludes exposure of the beverages until they are dispensed at the nozzles.

(3) Ice is dispensed only from an ice maker-dispenser. Ice is not scooped or manually loaded into an ice dispenser out-of-doors.

(4) Single-service utensils are protected from contamination and are individually wrapped or dispensed from approved sanitary dispensers.

(5) The dispensing operations have overhead protection that fully extends over all equipment associated with the facility.

(6) During nonoperating hours the dispensing operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.

(7) The owner or operator of the food establishment demonstrates to the enforcement agency that acceptable methods are in place to properly clean and sanitize the beverage dispensing equipment.



(8) Beverage dispensing operations are in compliance with Section 114010 and have been approved by the enforcement agency.

(9) Beverage dispensing operations are under the constant and complete control of the permit holder of the food establishments who is operating the dispensing facility.

(d) This section shall not be construed to allow outdoor displays in violation of local ordinances.

SEC. 7. The heading of Article 11 (commencing with Section 114250) of Chapter 4 of Part 7 of Division 104 of the Health and Safety Code is amended to read:

Article 11. Mobile Food Facilities

SEC. 8. Section 114265 of the Health and Safety Code is amended to read:

114265. (a) The name, address, and telephone number of the owner, operator, permittee, business name, or commissary shall be legible, clearly visible, and permanently indicated on at least two sides of the exterior of the mobile food facility. The name shall be in letters at least 8 centimeters (3 inches) high and shall have strokes at least 1 centimeter ($\frac{3}{8}$ inch) wide, and shall be of a color contrasting with the mobile food facility exterior. Letters and numbers for address and telephone numbers shall not be less than 2.5 centimeters (one inch) high.

(b) Mobile food facility equipment, including, but not limited to, the interior of cabinet units and compartments, shall be designed so as to, and made of materials that, result in smooth, readily accessible, and easily cleanable surfaces. Unfinished wooden surfaces are prohibited. Construction joints shall be tightly fitted and sealed so as to be easily cleanable. Equipment and utensils shall be constructed of durable, nontoxic materials and shall be easily cleanable.

(c) During operation, no food intended for retail shall be conveyed, held, stored, displayed, or served from any place other than a mobile food facility except for the restocking of product in a manner approved by the enforcement agency.

(d) Notwithstanding subdivision (k), food products remaining after each day's operation shall be stored only in an approved commissary or other approved facility.

(e) During transportation, storage, and operation of a mobile food facility, food, food contact surfaces, and utensils shall be protected from contamination. Single-service utensils shall be individually wrapped or in sanitary containers or approved sanitary dispensers, stored in a clean, dry place until used, handled in a sanitary manner, and used only once. Food contact surfaces and utensils shall be cleaned and sanitized in accordance with subdivisions (i), (j), and (k) of Section 114090.



(f) All food displayed, sold, or offered for sale from a mobile food facility shall be obtained from an approved source.

(g) Food condiments shall be protected from contamination and, where available for customer self-service, be prepackaged or available only from approved dispensing devices.

(h) Mobile food facilities shall be operated within 60 meters (200 feet) of approved and readily available toilet and hand washing facilities or as otherwise approved by the enforcement agency to ensure restroom facilities are available to facility employees.

(i) All mobile food facilities shall operate out of a commissary or other approved facility. Mobile food facilities shall report to the commissary or other approved facility at least once each operating day for cleaning and servicing operations. Mobile food facilities shall be properly stored, cleaned, and serviced at, or within, a commissary or other facility as approved by the enforcement agency so as to provide protection from unsanitary conditions.

(j) Potentially hazardous food shall be maintained at or below 5 degrees Celsius (41 degrees Fahrenheit) or at or above 60 degrees Celsius (140 degrees Fahrenheit) at all times in accordance with Section 113995.

(k) Potentially hazardous food held at or above 60 degrees Celsius (140 degrees Fahrenheit) on a mobile food facility shall be destroyed at the end of the operating day.

(l) All waste water from a mobile food facility shall be drained to an approved waste water receptor at the commissary or other approved facility.

(m) All new and replacement gas-fired appliances shall meet applicable American Gas Association standards. All new and replacement electrical appliances shall meet applicable Underwriters Laboratory standards.

(n) Bulk beverage dispensers shall only be filled at the commissary or other facility approved by the enforcement agency unless a hand washing sink as described in paragraph (1) of subdivision (p) is provided.

(o) Where nonprepackaged food is handled for display or sale, the mobile food facility shall be equipped with a food compartment that completely encloses all food, food contact surfaces, and the handling of ready-to-eat food. The opening to the food compartment shall be sized as appropriate to the food handling activity without compromising the intended protection from contamination, and shall be provided with tight-fitting doors that, when closed, protect interior surfaces from dust, debris, insects, and other vermin.

(p) Mobile food facilities, not under a valid public health permit as of January 1, 1997, on which nonprepackaged ready-to-eat food is sold or offered for sale shall be constructed and equipped in compliance with all of the following:



(1) A minimum of a one-compartment metal sink, hand washing cleanser and single-service towels in approved dispensers shall be provided. The sink shall be furnished with hot running water that is at least 49 degrees Celsius (120 degrees Fahrenheit) and cold running water that is less than 38 degrees Celsius (101 degrees Fahrenheit) through a mixing-type faucet that permits both hands to be free for washing. The sink shall be large enough to accommodate the largest utensils washed. The sink, hand washing cleanser, and single-service towels shall be located as to be easily accessible and unobstructed for use by the operator in the working area. The minimum water heater capacity shall be one-half gallon.

(2) The potable water tank and delivery system shall be constructed of approved materials, provide protection from contamination, and shall be of a capacity commensurate with the level of food handling activity on the mobile food facility. The capacity of the system shall be sufficient to furnish enough hot and cold water for the following: steam table, utensil washing and sanitizing, hand washing, and equipment cleaning. At least 18 liters (5 gallons) of water shall be provided exclusively for hand washing. Any water needed for other purposes shall be in addition to the 18 liters (5 gallons) for hand washing.

(3) (i) The waste water tank or tanks shall have a minimum capacity that is 50 percent greater than the potable water tank or tanks supplying the hand and utensil washing sink. In no case shall this waste water capacity be less than 28 liters (7.5 gallons).

(ii) Mobile food facilities utilizing ice in the storage, display, or service of food or beverages shall provide an additional minimum waste water holding tank capacity equal to one-third of the volume of the ice cabinet to accommodate the drainage of ice melt.

(iii) Mobile food facilities equipped with a tank supplying product water for the preparation of a food or beverage shall provide an additional waste water tank capacity equal to at least 15 percent of this water supply.

(iv) Additional waste water tank capacity may be required where waste water production or spillage is likely to occur.

(v) Any connection to a waste water tank shall preclude the possibility of contaminating any food, food contact surface, or utensil.

(4) A mobile food facility's potable water tank inlet shall be provided with a connection of a size and type that will prevent its use for any other service and shall be constructed so that backflow and other contamination of the water supply is prevented. Hoses used to fill potable water tanks shall be made of food grade materials and handled in a sanitary manner.

(5) Mobile food facilities limited to the portioning and dispensing of nonprepackaged, nonpotentially hazardous food are exempt from the hand washing and utensil washing sink requirements of this subdivision if there is an approved supply of gloves or utensils, or

both, on the facility that preclude any hand contact with the food products being dispensed. This exemption does not extend to the scooping of ice.

(q) Mobile food facilities selling unpackaged frozen ice cream bars or holding cream, milk, or similar dairy products pursuant to Section 114270 shall be equipped with refrigeration units as described in Section 113860.

(r) Operators of mobile food facilities handling nonprepackaged food shall develop and follow written operational procedures for food handling and the cleaning and sanitizing of food contact surfaces and utensils. The enforcement agency shall review and approve the procedures prior to implementation and an approved copy shall be kept on the mobile food facility during periods of operation.

(s) All potentially hazardous food shall be prepackaged in an approved food facility except as provided in Sections 114260 and 114270.

SEC. 9. Section 114360 of the Health and Safety Code is amended to read:

114360. Under the controls and conditions specified in this article, a satellite food distribution facility as defined in subdivision (b) of Section 113880 may do any of the following:

(a) Hold, portion, and dispense any foods that are prepared or prepackaged by the onsite food establishment or prepackaged by another approved source.

(b) Prepare foods other than potentially hazardous foods, remove the packaging of foods described in subdivision (a), prepare hot dogs, and coat ice cream bars with chocolate and nuts, if all food preparation and handling is within a compartment complying with subdivision (o) of Section 114265.

(c) Add condiments, sauces, garnishes, and similar accompaniments to foods at the time of sale, regardless of whether the accompaniments are potentially hazardous foods.

(d) Bake potatoes in enclosed ovens.

SEC. 10. Section 114380 of the Health and Safety Code is amended to read:

114380. Notwithstanding Section 114021, restricted food service transient occupancy establishments shall not be required to post signs in toilet rooms in guestrooms.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

O

